

IN THE U.S. PATENT AND TRADEMARK OFFICE

Appellants: Arnab DAS et al.
Application No.: 10/036,927
Art Unit: 2616
Filed: October 19, 2001
Examiner: Mohammad Sajid Adhami
For: AN ADAPTIVE HYBRID RETRANSMISSION METHOD FOR
WIRELESS COMMUNICATIONS
Attorney Docket No.: 129250-002148/US

**PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED
APPLICATION**

MAIL STOP-Petition

U.S. Patent and Trademark Office
Randolph Building
401 Dulany Street
Alexandria, VA 22314

July 30, 2008

Sir:

The above-identified application appears to have been unintentionally abandoned for failure to timely file a response to the Board of Patent Appeals & Interferences ("Board") Decision mailed March 21, 2008 ("Decision"). The entire delay in filing the required response, namely the response to the Decision, from the due date for the response until the filing of this petition was unintentional. Thus, the abandonment was unintentional.

A. STATEMENT BY APPLICANTS' ATTORNEY IN SUPPORT OF PETITION TO REVIVE APPLICATION

1.) On or about July 12, 2008 the Examiner responsible for this application left a message with Applicants' attorney, John E. Curtin, Esq. inquiring as to whether or not Applicants intended to file a response to the Board's Decision.

2.) Upon hearing the message Applicant's attorney checked his manual docketing book to determine whether a response to the Decision had been docketed. Upon finding no entry, the Applicants' attorney then checked the physical file to determine whether the Decision had been received. No copy of the Decision was found in the file. Applicants' attorney then went online and obtained a copy of the Decision from Private Pair. Upon confirming that the Decision was mailed to the correct address and realizing that the timeframe for responding to the Decision, May 21, 2008, had expired Applicants' attorney then called the Examiner back and informed the Examiner that the Applicants' attorney had just read the Decision and would undertake an investigation as to why the Decision was not received earlier. Applicants' attorney also asked the Examiner how to proceed.

3.) On July 18, 2008 the Examiner graciously called the Applicants' attorney back and left a message directing the Applicants' attorney to the Board's paralegal staff. On July 21 and 22 Applicants' attorney spoke to the Board's staff who directed the Applicants' attorney to file a petition explaining why the response had not been filed with the Board. This Petition followed.

4.) Applicants' attorney's investigation included a review of his docketing book for the week of March 21, 2008 and for May 21, 2008, the day upon which the two month response time to the Decision was due to expire. Copies of the docketing entries for those dates are enclosed. No entry referencing the Decision or the above-referenced application is found in the docketing book. For the Petition Office's reference, each application is given an attorney docket number. The docket number for the present application is 129250-002148. In Applicants' attorney's docket book this would be abbreviated "'2148". For example, on March 17, 2008 there appears an entry "922 COA Ap Brief" meaning an appeal brief in an application corresponding to attorney docket number 120250-000922 was due. Next to each docket entry is a signature ("JEC" in script) in Applicants' attorney's handwriting. In this case the signature indicates the appeal brief was completed. There are similar entries on March 28 (referencing docket numbers 2091 and 915), May 19 (1097), May 23 (2091), May 26 (2187), etc... There is no docket entry (i.e., 2148) corresponding to the instant application in Applicants attorney's docket book.

5.) Applicants' attorney's conclusion is that the Decision was either lost in the mail or unintentionally lost by the undersigned's law firm before it was matched to the correct file and docketed.

6.) Applicants' attorney apologizes to the Board for the delay in responding to the Decision. Applicants' attorney encloses a response along with this petition.

B. REQUEST TO REVIVE APPLICATION

The Applicants respectfully requests revival of the application.

APPLICANTS HEREBY PETITION FOR REVIVAL OF THIS APPLICATION

1. Petition Fee

- ☐ Small Entity - fee \$_____ (37 CFR 1.17(m))
☐ Small Entity Statement enclosed herewith.
☐ Small Entity Statement previously filed.
☒ Other than Small Entity - fee **\$1,540.00** (37 C.F.R 1.17(m))

2. Reply and/or Fee

- A. The filing fee (no reply is necessary) of \$_____:
☐ has been filed previously on _____
☒ is enclosed herewith (Response to Decision).
- B. The issue fee of \$_____
☐ has been paid previously on _____
☐ is enclosed herewith.

3. Terminal Disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after
June 8, 1995, no terminal disclaimer is required.
- ☐ A Terminal Disclaimer (and disclaimer fee (37 CFR 1.20(d)) of
\$_____ for a small entity or _____ for other than a small
entity) equivalent to the number of months from
abandonment to the filing of this petition.

**4. Statement. The entire delay in filing the required response from the due
date for the reply until the filing of a grantable petition under
37 CFR 1.137(b) or other applicable statute, rule or regulation was unintentional.**

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for the above calculated petition fee, and any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC

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Enclosures:

Copies of Docket Entries;
Response to Decision